

E2SHB 3205 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 03/06/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that meeting the
4 needs of vulnerable children who enter the child welfare system
5 requires a continuum of services available to meet the child's current
6 needs and to promote and support the child's long-term well-being.
7 Children who enter foster care and subsequently achieve permanency
8 through adoption will have ongoing developmental needs relating, in
9 part, to the length of time they spent in care. The legislature
10 intends to encourage a greater focus on children's developmental needs
11 by promoting closer adherence to timeliness standards in the resolution
12 of dependency cases and by elevating the importance of permanency for
13 children.

14 **Sec. 2.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read
15 as follows:

16 (1) A permanency plan shall be developed no later than sixty days
17 from the time the supervising agency assumes responsibility for
18 providing services, including placing the child, or at the time of a
19 hearing under RCW 13.34.130, whichever occurs first. The permanency
20 planning process continues until a permanency planning goal is achieved
21 or dependency is dismissed. The planning process shall include
22 reasonable efforts to return the child to the parent's home.

23 (2) The agency supervising the dependency shall submit a written
24 permanency plan to all parties and the court not less than fourteen
25 days prior to the scheduled hearing. Responsive reports of parties not
26 in agreement with the supervising agency's proposed permanency plan
27 must be provided to the supervising agency, all other parties, and the
28 court at least seven days prior to the hearing.

29 The permanency plan shall include:

1 (a) A permanency plan of care that shall identify one of the
2 following outcomes as a primary goal and may identify additional
3 outcomes as alternative goals: Return of the child to the home of the
4 child's parent, guardian, or legal custodian; adoption; guardianship;
5 permanent legal custody; long-term relative or foster care, until the
6 child is age eighteen, with a written agreement between the parties and
7 the care provider; successful completion of a responsible living skills
8 program; or independent living, if appropriate and if the child is age
9 sixteen or older. The department shall not discharge a child to an
10 independent living situation before the child is eighteen years of age
11 unless the child becomes emancipated pursuant to chapter 13.64 RCW;

12 (b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~)
13 (5), that a termination petition be filed, a specific plan as to where
14 the child will be placed, what steps will be taken to return the child
15 home, what steps the agency will take to promote existing appropriate
16 sibling relationships and/or facilitate placement together or contact
17 in accordance with the best interests of each child, and what actions
18 the agency will take to maintain parent-child ties. All aspects of the
19 plan shall include the goal of achieving permanence for the child.

20 (i) The agency plan shall specify what services the parents will be
21 offered to enable them to resume custody, what requirements the parents
22 must meet to resume custody, and a time limit for each service plan and
23 parental requirement.

24 (ii) Visitation is the right of the family, including the child and
25 the parent, in cases in which visitation is in the best interest of the
26 child. Early, consistent, and frequent visitation is crucial for
27 maintaining parent-child relationships and making it possible for
28 parents and children to safely reunify. The agency shall encourage the
29 maximum parent and child and sibling contact possible, when it is in
30 the best interest of the child, including regular visitation and
31 participation by the parents in the care of the child while the child
32 is in placement. Visitation shall not be limited as a sanction for a
33 parent's failure to comply with court orders or services where the
34 health, safety, or welfare of the child is not at risk as a result of
35 the visitation. Visitation may be limited or denied only if the court
36 determines that such limitation or denial is necessary to protect the
37 child's health, safety, or welfare. The court and the agency should
38 rely upon community resources, relatives, foster parents, and other

1 appropriate persons to provide transportation and supervision for
2 visitation to the extent that such resources are available, and
3 appropriate, and the child's safety would not be compromised.

4 (iii) A child shall be placed as close to the child's home as
5 possible, preferably in the child's own neighborhood, unless the court
6 finds that placement at a greater distance is necessary to promote the
7 child's or parents' well-being.

8 (iv) The plan shall state whether both in-state and, where
9 appropriate, out-of-state placement options have been considered by the
10 department.

11 (v) Unless it is not in the best interests of the child, whenever
12 practical, the plan should ensure the child remains enrolled in the
13 school the child was attending at the time the child entered foster
14 care.

15 (vi) The agency charged with supervising a child in placement shall
16 provide all reasonable services that are available within the agency,
17 or within the community, or those services which the department has
18 existing contracts to purchase. It shall report to the court if it is
19 unable to provide such services; and

20 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+4)~~) (5),
21 that a termination petition be filed, a specific plan as to where the
22 child will be placed, what steps will be taken to achieve permanency
23 for the child, services to be offered or provided to the child, and, if
24 visitation would be in the best interests of the child, a
25 recommendation to the court regarding visitation between parent and
26 child pending a fact-finding hearing on the termination petition. The
27 agency shall not be required to develop a plan of services for the
28 parents or provide services to the parents if the court orders a
29 termination petition be filed. However, reasonable efforts to ensure
30 visitation and contact between siblings shall be made unless there is
31 reasonable cause to believe the best interests of the child or siblings
32 would be jeopardized.

33 (3) Permanency planning goals should be achieved at the earliest
34 possible date, (~~(preferably before)~~). If the child has been in out-of-
35 home care for fifteen of the most recent twenty-two months, the court
36 shall require the department to file a petition seeking termination of
37 parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases
38 where parental rights have been terminated, the child is legally free

1 for adoption, and adoption has been identified as the primary
2 permanency planning goal, it shall be a goal to complete the adoption
3 within six months following entry of the termination order.

4 (4) If the court determines that the continuation of reasonable
5 efforts to prevent or eliminate the need to remove the child from his
6 or her home or to safely return the child home should not be part of
7 the permanency plan of care for the child, reasonable efforts shall be
8 made to place the child in a timely manner and to complete whatever
9 steps are necessary to finalize the permanent placement of the child.

10 (5) The identified outcomes and goals of the permanency plan may
11 change over time based upon the circumstances of the particular case.

12 (6) The court shall consider the child's relationships with the
13 child's siblings in accordance with RCW 13.34.130(3).

14 (7) For purposes related to permanency planning:

15 (a) "Guardianship" means a dependency guardianship or a legal
16 guardianship pursuant to chapter 11.88 RCW or equivalent laws of
17 another state or a federally recognized Indian tribe.

18 (b) "Permanent custody order" means a custody order entered
19 pursuant to chapter 26.10 RCW.

20 (c) "Permanent legal custody" means legal custody pursuant to
21 chapter 26.10 RCW or equivalent laws of another state or a federally
22 recognized Indian tribe.

23 **Sec. 3.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read
24 as follows:

25 (1) The purpose of a permanency planning hearing is to review the
26 permanency plan for the child, inquire into the welfare of the child
27 and progress of the case, and reach decisions regarding the permanent
28 placement of the child.

29 (a) A permanency planning hearing shall be held in all cases where
30 the child has remained in out-of-home care for at least nine months and
31 an adoption decree, guardianship order, or permanent custody order has
32 not previously been entered. The hearing shall take place no later
33 than twelve months following commencement of the current placement
34 episode.

35 (b) Whenever a child is removed from the home of a dependency
36 guardian or long-term relative or foster care provider, and the child
37 is not returned to the home of the parent, guardian, or legal custodian

1 but is placed in out-of-home care, a permanency planning hearing shall
2 take place no later than twelve months, as provided in this section,
3 following the date of removal unless, prior to the hearing, the child
4 returns to the home of the dependency guardian or long-term care
5 provider, the child is placed in the home of the parent, guardian, or
6 legal custodian, an adoption decree, guardianship order, or a permanent
7 custody order is entered, or the dependency is dismissed.

8 (c) Permanency planning goals should be achieved at the earliest
9 possible date, preferably before the child has been in out-of-home care
10 for fifteen months. In cases where parental rights have been
11 terminated, the child is legally free for adoption, and adoption has
12 been identified as the primary permanency planning goal, it shall be a
13 goal to complete the adoption within six months following entry of the
14 termination order.

15 (2) No later than ten working days prior to the permanency planning
16 hearing, the agency having custody of the child shall submit a written
17 permanency plan to the court and shall mail a copy of the plan to all
18 parties and their legal counsel, if any.

19 (3) At the permanency planning hearing, the court shall conduct the
20 following inquiry:

21 (a) If a goal of long-term foster or relative care has been
22 achieved prior to the permanency planning hearing, the court shall
23 review the child's status to determine whether the placement and the
24 plan for the child's care remain appropriate.

25 (b) In cases where the primary permanency planning goal has not
26 been achieved, the court shall inquire regarding the reasons why the
27 primary goal has not been achieved and determine what needs to be done
28 to make it possible to achieve the primary goal. The court shall
29 review the permanency plan prepared by the agency and make explicit
30 findings regarding each of the following:

31 (i) The continuing necessity for, and the safety and
32 appropriateness of, the placement;

33 (ii) The extent of compliance with the permanency plan by the
34 agency and any other service providers, the child's parents, the child,
35 and the child's guardian, if any;

36 (iii) The extent of any efforts to involve appropriate service
37 providers in addition to agency staff in planning to meet the special
38 needs of the child and the child's parents;

1 (iv) The progress toward eliminating the causes for the child's
2 placement outside of his or her home and toward returning the child
3 safely to his or her home or obtaining a permanent placement for the
4 child;

5 (v) The date by which it is likely that the child will be returned
6 to his or her home or placed for adoption, with a guardian or in some
7 other alternative permanent placement; and

8 (vi) If the child has been placed outside of his or her home for
9 fifteen of the most recent twenty-two months, not including any period
10 during which the child was a runaway from the out-of-home placement or
11 the first six months of any period during which the child was returned
12 to his or her home for a trial home visit, the appropriateness of the
13 permanency plan, whether reasonable efforts were made by the agency to
14 achieve the goal of the permanency plan, and the circumstances which
15 prevent the child from any of the following:

16 (A) Being returned safely to his or her home;

17 (B) Having a petition for the involuntary termination of parental
18 rights filed on behalf of the child;

19 (C) Being placed for adoption;

20 (D) Being placed with a guardian;

21 (E) Being placed in the home of a fit and willing relative of the
22 child; or

23 (F) Being placed in some other alternative permanent placement,
24 including independent living or long-term foster care.

25 At this hearing, the court shall order the department to file a
26 petition seeking termination of parental rights if the child has been
27 in out-of-home care for fifteen of the last twenty-two months since the
28 date the dependency petition was filed unless the court makes a good
29 cause exception as to why the filing of a termination of parental
30 rights petition is not appropriate. Any good cause finding shall be
31 reviewed at all subsequent hearings pertaining to the child. For
32 purposes of this section, "good cause exception" includes but is not
33 limited to the following: The child is being cared for by a relative;
34 the department has not provided to the child's family such services as
35 the court and the department have deemed necessary for the child's safe
36 return home; or the department has documented in the case plan a
37 compelling reason for determining that filing a petition to terminate
38 parental rights would not be in the child's best interests.

1 (c)(i) If the permanency plan identifies independent living as a
2 goal, the court shall make a finding that the provision of services to
3 assist the child in making a transition from foster care to independent
4 living will allow the child to manage his or her financial, personal,
5 social, educational, and nonfinancial affairs prior to approving
6 independent living as a permanency plan of care.

7 (ii) The permanency plan shall also specifically identify the
8 services that will be provided to assist the child to make a successful
9 transition from foster care to independent living.

10 (iii) The department shall not discharge a child to an independent
11 living situation before the child is eighteen years of age unless the
12 child becomes emancipated pursuant to chapter 13.64 RCW.

13 (d) If the child has resided in the home of a foster parent or
14 relative for more than six months prior to the permanency planning
15 hearing, the court shall also enter a finding regarding whether the
16 foster parent or relative was informed of the hearing as required in
17 RCW 74.13.280 (~~and 13.34.138~~), 13.34.215(5), and 13.34.096.

18 (4) In all cases, at the permanency planning hearing, the court
19 shall:

20 (a)(i) Order the permanency plan prepared by the agency to be
21 implemented; or

22 (ii) Modify the permanency plan, and order implementation of the
23 modified plan; and

24 (b)(i) Order the child returned home only if the court finds that
25 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

26 (ii) Order the child to remain in out-of-home care for a limited
27 specified time period while efforts are made to implement the
28 permanency plan.

29 (5) Following the first permanency planning hearing, the court
30 shall hold a further permanency planning hearing in accordance with
31 this section at least once every twelve months until a permanency
32 planning goal is achieved or the dependency is dismissed, whichever
33 occurs first.

34 (6) Prior to the second permanency planning hearing, the agency
35 that has custody of the child shall consider whether to file a petition
36 for termination of parental rights.

37 (7) If the court orders the child returned home, casework

1 supervision shall continue for at least six months, at which time a
2 review hearing shall be held pursuant to RCW 13.34.138, and the court
3 shall determine the need for continued intervention.

4 (8) The juvenile court may hear a petition for permanent legal
5 custody when: (a) The court has ordered implementation of a permanency
6 plan that includes permanent legal custody; and (b) the party pursuing
7 the permanent legal custody is the party identified in the permanency
8 plan as the prospective legal custodian. During the pendency of such
9 proceeding, the court shall conduct review hearings and further
10 permanency planning hearings as provided in this chapter. At the
11 conclusion of the legal guardianship or permanent legal custody
12 proceeding, a juvenile court hearing shall be held for the purpose of
13 determining whether dependency should be dismissed. If a guardianship
14 or permanent custody order has been entered, the dependency shall be
15 dismissed.

16 (9) Continued juvenile court jurisdiction under this chapter shall
17 not be a barrier to the entry of an order establishing a legal
18 guardianship or permanent legal custody when the requirements of
19 subsection (8) of this section are met.

20 (10) Nothing in this chapter may be construed to limit the ability
21 of the agency that has custody of the child to file a petition for
22 termination of parental rights or a guardianship petition at any time
23 following the establishment of dependency. Upon the filing of such a
24 petition, a fact-finding hearing shall be scheduled and held in
25 accordance with this chapter unless the agency requests dismissal of
26 the petition prior to the hearing or unless the parties enter an agreed
27 order terminating parental rights, establishing guardianship, or
28 otherwise resolving the matter.

29 (11) The approval of a permanency plan that does not contemplate
30 return of the child to the parent does not relieve the supervising
31 agency of its obligation to provide reasonable services, under this
32 chapter, intended to effectuate the return of the child to the parent,
33 including but not limited to, visitation rights. The court shall
34 consider the child's relationships with siblings in accordance with RCW
35 13.34.130.

36 (12) Nothing in this chapter may be construed to limit the
37 procedural due process rights of any party in a termination or
38 guardianship proceeding filed under this chapter.

1 **Sec. 4.** RCW 13.34.020 and 1998 c 314 s 1 are each amended to read
2 as follows:

3 The legislature declares that the family unit is a fundamental
4 resource of American life which should be nurtured. Toward the
5 continuance of this principle, the legislature declares that the family
6 unit should remain intact unless a child's right to conditions of basic
7 nurture, health, or safety is jeopardized. When the rights of basic
8 nurture, physical and mental health, and safety of the child and the
9 legal rights of the parents are in conflict, the rights and safety of
10 the child should prevail. In making reasonable efforts under this
11 chapter, the child's health (~~and~~), safety, and long-term well-being
12 shall be the paramount concern. The right of a child to basic
13 nurturing includes the right to a safe, stable, and permanent home and
14 a speedy resolution of any proceeding under this chapter.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.13 RCW
16 to read as follows:

17 (1) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "Adopted" means that a valid decree of adoption regarding the
20 child and parent was entered and remains intact in Washington or in
21 another jurisdiction.

22 (b) "Child" means any child under the age of eighteen who was found
23 to be dependent, placed in out-of-home care, and subsequently was
24 adopted from an out-of-home placement or returned to the child's parent
25 and the dependency dismissed.

26 (c) "Licensed facility" means a facility licensed under chapter
27 74.15 RCW to provide residential evaluation and treatment services for
28 children.

29 (d) "Parent" means the biological, or adoptive, and legal parent of
30 a child according to the terms of a valid decree of adoption, or the
31 legal guardian of a child.

32 (e) "Voluntary placement agreement" means a written agreement
33 between the department and a child's parent authorizing the department
34 to place the child in a licensed facility for the purpose of receiving
35 mental health or behavioral health treatment intended to stabilize the
36 child's functioning and support the child's return home. Under the

1 terms of a voluntary placement agreement, the parent retains legal
2 custody of the child while the department temporarily assumes
3 responsibility for the child's placement and care.

4 (2) A parent may request and the department may agree to enter into
5 a voluntary placement agreement whenever the following conditions are
6 met:

7 (a) The child resides in Washington state;

8 (b) Less intensive and traditional family preservation services,
9 community resources, and/or adoption supports have been unsuccessful or
10 are not likely to be successful in stabilizing the child's behavior and
11 functioning; and

12 (c) The parent has no reasonable alternative to access the level of
13 care necessary to meet the child's needs or preserve the adoption.

14 (3)(a) Whenever the department assumes responsibility for the
15 placement and care of a child under this section, the department, in
16 consultation with the child, the child's parent, and a mental health
17 professional, shall develop a plan for the child's eventual return
18 home. If the plan anticipates the child will remain in out-of-home
19 care one hundred eighty days or longer, or if at any time it appears
20 the child will remain in out-of-home care longer than one hundred
21 eighty days, the department and the parent shall jointly seek a
22 judicial determination that the agreement is in the child's best
23 interests. If the child exits the out-of-home placement before one
24 hundred eighty days have elapsed, no judicial determination is
25 required.

26 (b) To obtain the judicial determination required under this
27 section, the department and the parent shall file a joint petition
28 alleging there is located or residing within the county a child who was
29 adopted from the foster care system whose current behavioral health or
30 mental health needs can not be met adequately by the child's parent,
31 and that as a result the child has been placed in out-of-home care
32 pursuant to this section. The petition shall request that the court
33 conduct periodic reviews of the child's placement and make a
34 determination whether continued placement is in the best interests of
35 the child. The petition shall contain the name, date of birth, and
36 residence of the child and the names and residences of the child's
37 parent or legal guardian who has consented to the voluntary placement
38 agreement. The department shall make reasonable attempts to ascertain

1 and set forth in the petition the identity, location, and custodial
2 status of any parent who is not a party to the placement agreement and
3 reasons why that parent cannot assume placement and care authority of
4 the child.

5 (c) Permanency planning for the child shall be the joint
6 responsibility of the department and the parent.

7 (4) A written agreement under this section must specify the legal
8 status of the child and the rights and obligations of the parent, the
9 child, and the department while the child is in the licensed facility.
10 Any party to the agreement may terminate the agreement at any time by
11 providing advance notice to the other party and to the child if he or
12 she is thirteen years of age or older. Upon termination of the
13 agreement, the child must be returned to the care of his or her parent
14 unless the child has been taken into custody pursuant to RCW 13.34.050
15 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or
16 placed in foster care pursuant to RCW 13.34.130.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW
18 to read as follows:

19 (1) The legislature finds that as a condition of the state's
20 receipt of federal funds for foster care under Title IV-B and Title IV-
21 E of the social security act, all children in foster care must be
22 subjected to periodic court review. Unfortunately, this requirement
23 includes children who were once placed in foster care and subsequently
24 returned to their parent's care and those children adopted out of
25 foster care each of whom subsequently are temporarily returned to a
26 foster care placement solely because their parents have determined that
27 the child's mental health or behavioral health service needs require an
28 out-of-home placement. Except for providing such needed services, the
29 parents of these children are completely competent to care for the
30 children. The legislature intends that court review of out-of-home
31 placements pursuant to section 5 of this act be structured to minimize
32 the stress and inconvenience to families caused by complying with these
33 federal requirements.

34 (2) Upon filing of the petition required under section 5 of this
35 act, the clerk of the court shall schedule the petition for a hearing
36 to be held no later than fourteen calendar days after the petition has
37 been filed. The department shall provide notification of the time,

1 date, and purpose of the hearing to the parent or legal guardian who
2 has agreed to the child's placement in out-of-home care. The
3 department shall also make reasonable attempts to notify any parent who
4 is not a party to the placement agreement, if the parent's identity and
5 location are known. Notification under this section may be given by
6 the most expedient means, including but not limited to mail, personal
7 service, and telephone.

8 **Sec. 7.** RCW 74.13.080 and 1987 c 170 s 11 are each amended to read
9 as follows:

10 Except as provided in RCW 74.13.350 and section 5 of this act, the
11 department shall not make payment for any child in group care placement
12 unless the group home is licensed and the department has the ((~~custody~~
13 ~~of~~)) placement and care authority for the child under a court order or
14 a voluntary placement agreement and the authority to remove the child
15 in a cooperative manner after at least seventy-two hours notice to the
16 child care provider; such notice may be waived in emergency situations.
17 However, this requirement shall not be construed to prohibit the
18 department from making or mandate the department to make payment for
19 Indian children placed in facilities licensed by federally recognized
20 Indian tribes pursuant to chapter 74.15 RCW.

21 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
22 sections 2 and 3 of this act, referencing sections 2 and 3 of this act
23 by bill or chapter number and section number, is not provided by June
24 30, 2008, in the omnibus appropriations act, sections 2 and 3 of this
25 act are null and void.

26 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
27 sections 5, 6, and 7 of this act, referencing sections 5, 6, and 7 of
28 this act by bill or chapter number and section number, is not provided
29 by June 30, 2008, in the omnibus appropriations act, sections 5, 6, and
30 7 of this act are null and void."

E2SHB 3205 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 03/06/2008

1 On page 1, line 1 of the title, after "children;" strike the
2 remainder of the title and insert "amending RCW 13.34.136, 13.34.145,
3 13.34.020, and 74.13.080; adding a new section to chapter 74.13 RCW;
4 adding a new section to chapter 13.34 RCW; and creating new sections."

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